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Meeting of States Parti

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Annual report of the International Tribunal for the Law of the Sea for 2011

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3 (d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2011.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). It functions in accordance with the relevant provisions of part XV and part XI of the Convention, the Statute of the Tribunal (hereinafter "the Statute"), as contained in annex VI to the Convention, and the Rules of the Tribunal (hereinafter "the Rules").

II. Organization of the Tribunal

3. The Tribunal is composed of 21 members, elected by the States parties to the Convention in the manner provided for by article 4 of the Statute.

4. In accordance with article 5, paragraph 1, of the Statute, the terms of office of seven members expired on 30 September 2011.

5. Until 30 September 2011, the composition of the Tribunal was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
José Luis Jesus	Cape Verde	30 September 2017
Vice-President		
Helmut Türk	Austria	30 September 2014
Judges		
Hugo Caminos	Argentina	30 September 2011
Vicente Marotta Rangel	Brazil	30 September 2017
Alexander Yankov	Bulgaria	30 September 2011
L. Dolliver M. Nelson	Grenada	30 September 2014
P. Chandrasekhara Rao	India	30 September 2017
Joseph Akl	Lebanon	30 September 2017
Rüdiger Wolfrum	Germany	30 September 2017
Tullio Treves	Italy	30 September 2011
Tafsir Malick Ndiaye	Senegal	30 September 2011
Jean-Pierre Cot	France	30 September 2011

Order of precedence	*Country*	*Date of expiry of term of office*
Anthony Amos Lucky	Trinidad and Tobago	30 September 2011
Stanislaw Pawlak	Poland	30 September 2014
Shunji Yanai	Japan	30 September 2014
James Kateka	United Republic of Tanzania	30 September 2014
Albert Hoffmann	South Africa	30 September 2014
Zhiguo Gao	China	30 September 2011
Boualem Bouguetaia	Algeria	30 September 2017
Vladimir Vladimirovich Golitsyn	Russian Federation	30 September 2017
Jin-Hyun Paik	Republic of Korea	30 September 2014

6. Since 1 October 2011, the composition of the Tribunal has been as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
Shunji Yanai	Japan	30 September 2014
Vice-President		
Albert Hoffmann	South Africa	30 September 2014
Judges		
Vicente Marotta Rangel	Brazil	30 September 2017
L. Dolliver M. Nelson	Grenada	30 September 2014
P. Chandrasekhara Rao	India	30 September 2017
Joseph Akl	Lebanon	30 September 2017
Rüdiger Wolfrum	Germany	30 September 2017
Tafsir Malick Ndiaye	Senegal	30 September 2020
José Luis Jesus	Cape Verde	30 September 2017
Jean-Pierre Cot	France	30 September 2020
Anthony Amos Lucky	Trinidad and Tobago	30 September 2020
Stanislaw Pawlak	Poland	30 September 2014
Helmut Türk	Austria	30 September 2014
James Kateka	United Republic of Tanzania	30 September 2014

Order of precedence	*Country*	*Date of expiry of term of office*
Zhiguo Gao	China	30 September 2020
Boualem Bouguetaia	Algeria	30 September 2017
Vladimir Vladimirovich Golitsyn	Russian Federation	30 September 2017
Jin-Hyun Paik	Republic of Korea	30 September 2014
Elsa Kelly	Argentina	30 September 2020
David Joseph Attard	Malta	30 September 2020
Markiyan Z. Kulyk	Ukraine	30 September 2020

7. The Registrar is Philippe Gautier (Belgium) and the Deputy Registrar is Doo-young Kim (Republic of Korea).

A. Changes in the composition of the Tribunal

1. Election of seven members of the Tribunal

8. The triennial election to fill the positions of seven members whose terms of office expired on 30 September 2011 was held during the twenty-first Meeting of States Parties (see SPLOS/231, para. 57).

9. Acting pursuant to article 4, paragraph 2, of the Statute, the Registrar, in a note verbale dated 15 December 2010, invited the Governments of States parties to the Convention to submit by 9 March 2011 the names of candidates they might wish to nominate for election as members of the Tribunal. An alphabetical list of all persons nominated, with an indication of the States parties having nominated them, was prepared by the Registrar and submitted to the States parties as document SPLOS/219 of 15 March 2011.

10. On 15 and 16 June 2011, the twenty-first Meeting re-elected Judges Cot, Gao, Lucky and Ndiaye, and elected Elsa Kelly, David Joseph Attard and Markiyan Z. Kulyk as judges, for a nine-year term starting from 1 October 2011.

2. Solemn declaration

11. Pursuant to article 11 of the Statute, every member of the Tribunal is required, before taking up his duties, to make a solemn declaration that he will exercise his powers impartially and conscientiously. The declaration is to be made at the first public sitting at which the member is present.

12. The solemn declaration provided for in article 5 of the Rules was made by Judges Kelly, Attard and Kulyk at a public sitting of the Tribunal on 1 October 2011. Pursuant to paragraph 3 of that article, re-elected members were not required to make a new declaration.

B. Election of the President and the Vice-President

13. On 1 October 2011, the judges elected Judge Shunji Yanai President of the Tribunal and Judge Albert J. Hoffmann Vice-President. The President and the Vice-President entered upon their functions forthwith. As provided for in article 12 of the Statute, the President and the Vice-President are both elected for a term of three years.

C. Election of the Registrar

14. In accordance with article 32 of the Rules, the Registrar is elected from the candidates nominated by members of the Tribunal.

15. On 22 March 2011, the members re-elected Philippe Gautier (Belgium) Registrar of the Tribunal for a term of five years. Mr. Gautier has been Registrar of the Tribunal since 2001. He was Deputy Registrar of the Tribunal from 1997 to 2001. He began his career in the Ministry of Foreign Affairs of Belgium (1984-1997), where he served as Head of the Treaties Division (1995-1997) and as Head of the Law of the Sea Office (1991-1995). He is a Professor at the Catholic University of Louvain.

III. Chambers

A. Seabed Disputes Chamber

16. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the Tribunal from among its elected members. The members of the Chamber are selected triennially.

17. Pursuant to article 23 of the Rules, the terms of office of members selected on 2 October 2008 expired on 30 September 2011. The composition of the Chamber, in order of precedence, was as follows: Judge Treves, President; Judges Marotta Rangel, Nelson, Chandrasekhara Rao, Wolfrum, Yanai, Kateka, Hoffmann, Gao, Bouguetaia and Golitsyn, members.

18. During the thirty-second session, on 6 October 2011, the Tribunal selected the members of the Seabed Disputes Chamber. As required by the Statute, the judges of the Chamber were selected in such a manner as to ensure the representation of the principal legal systems of the world and equitable geographical distribution. The members of the Chamber entered upon their duties forthwith and elected Judge Golitsyn President of the Chamber. The composition of the Chamber, in order of precedence, is as follows: Judge Golitsyn, President; Judges Marotta Rangel, Nelson, Chandrasekhara Rao, Akl, Wolfrum, Ndiaye, Jesus, Türk, Gao and Bouguetaia, members.

19. The terms of office of the members of the Chamber expire on 30 September 2014.

B. Special chambers

1. Chamber of Summary Procedure

20. The Chamber of Summary Procedure is established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. In accordance with article 28 of the Rules, the President and the Vice-President of the Tribunal are ex officio members of the Chamber, with the President of the Tribunal serving as President of the Chamber. The Chamber is constituted annually.

21. During the thirty-second session of the Tribunal, on 4 October 2011, the Chamber was constituted for the period from 1 October 2011 to 30 September 2012. The members of the Chamber, in order of precedence, are as follows: Judge Yanai, President; Judges Hoffmann, Lucky, Kateka and Golitsyn, members; Judges Paik and Attard, alternates.

2. Chamber for Fisheries Disputes

22. On 20 February 1997, the Tribunal established the Chamber for Fisheries Disputes, in accordance with article 15, paragraph 1, of the Statute.

23. The terms of office of the members of the Chamber selected on 2 October 2008 expired on 30 September 2011. The composition of the Chamber, in order of precedence, was as follows: Judge Caminos, President; Judges Treves, Pawlak, Yanai, Kateka, Hoffmann, Gao and Paik, members.

24. During the thirty-second session, on 4 October 2011, the Tribunal selected the members of the Chamber for Fisheries Disputes for a three-year term. The members of the Chamber entered upon their duties forthwith and elected Judge Ndiaye President of the Chamber. The composition of the Chamber, in order of precedence, is as follows: Judge Ndiaye, President; Judges Cot, Pawlak, Kateka, Gao, Paik, Kelly, Attard and Kulyk, members.

25. The terms of office of the members of the Chamber expire on 30 September 2014.

3. Chamber for Marine Environment Disputes

26. On 20 February 1997, the Tribunal established the Chamber for Marine Environment Disputes in accordance with article 15, paragraph 1, of the Statute.

27. The terms of office of the members of the Chamber, selected on 2 October 2008, expired on 30 September 2011. The composition of the Chamber, in order of precedence, was as follows: Judge Cot, President; Judges Marotta Rangel, Wolfrum, Lucky, Kateka, Gao and Golitsyn, members.

28. During the thirty-second session, on 4 October 2011, the Tribunal selected the members of the Chamber for Marine Environment Disputes for a three-year term. The members of the Chamber entered upon their duties forthwith and elected Judge Lucky President of the Chamber. The composition of the Chamber, in order of precedence, is as follows: Judge Lucky, President; Judges Wolfrum, Cot, Bouguetaia, Golitsyn, Paik and Kelly, members.

29. The terms of office of the members of the Chamber expire on 30 September 2014.

4. Chamber for Maritime Delimitation Disputes

30. On 16 March 2007, the Tribunal established the Chamber for Marine Delimitation Disputes in accordance with article 15, paragraph 1, of the Statute.

31. The terms of office of the members of the Chamber, selected on 2 October 2008, expired on 30 September 2011. The composition of the Chamber, in order of precedence, was as follows: Judge Jesus, President; Judges Nelson, Chandrasekhara Rao, Akl, Ndiaye, Cot, Pawlak, Yanai, Bouguetaia and Paik, members.

32. During the thirty-second session, on 4 October 2011, the Tribunal selected the members of the Chamber for Maritime Delimitation Disputes for a three-year term. The members of the Chamber entered upon their duties forthwith. The composition of the Chamber, in order of precedence, is as follows: Judge Yanai, President; Judges Nelson, Chandrasekhara Rao, Akl, Wolfrum, Ndiaye, Jesus, Cot, Pawlak, Gao and Bouguetaia, members.

IV. Meetings of the Tribunal

33. The Seabed Disputes Chamber met from 17 to 31 January 2011 to deal with case No. 17 on the list of cases of the Tribunal (*Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area (Request for Advisory Opinion submitted to the Seabed Disputes Chamber)*). The Chamber delivered an advisory opinion in this case on 1 February 2011.

34. The Tribunal met on 14, 23 and 24 March, from 5 September to 24 September and from 10 October to 4 November 2011 to deal with case No. 16 on the list of cases of the Tribunal (*Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (People's Republic of Bangladesh/ Union of Myanmar)*). The Tribunal delivered its judgment on 14 March 2012.

35. The Tribunal met on 30 September 2011 to deal with case No. 18 on the list of cases of the Tribunal (*The* M/V "Louisa" *Case (Saint Vincent and the Grenadines v. Kingdom of Spain)*), and case No. 19 on the list of cases of the Tribunal (*The* M/V "Virginia G" *Case (Panama/Guinea-Bissau)*).

36. The Tribunal also held two sessions devoted to legal and judicial matters as well as organizational and administrative matters: the thirty-first session of the Tribunal was held from 14 to 25 March 2011 and the thirty-second session from 26 September to 7 October 2011.

37. The Tribunal decided to hold its thirty-third session from 19 to 30 March 2012, to deal with legal matters having a bearing on the judicial work of the Tribunal and organizational and administrative matters. It also decided that the dates for the thirty-fourth session would be 17 to 28 September 2012.

V. Appointment of arbitrators by the President of the Tribunal pursuant to article 3 of annex VII to the Convention

38. In a letter dated 21 February 2011, the Solicitor-General of Mauritius, acting on behalf of the Government of Mauritius, requested the President of the Tribunal to appoint three arbitrators in the arbitral proceedings instituted under annex VII to the

Convention for the settlement of the dispute between Mauritius and the United Kingdom of Great Britain and Northern Ireland concerning the "marine protected area" related to the Chagos Archipelago.

39. In accordance with article 3 of annex VII to the Convention, if the parties are unable to agree on the appointment of one or more members of the arbitral tribunal to be designated by common agreement, or on the designation of the president of the arbitral tribunal, the President of the Tribunal shall make the necessary appointment(s) at the request of any party to the dispute and in consultation with the parties.

40. The President of the Tribunal held consultations with the parties on the premises of the Tribunal in March 2011, and subsequently chose three arbitrators, namely, Ivan Shearer (Australia), James Kateka (United Republic of Tanzania) and Albert Hoffmann (South Africa). The President of the Tribunal appointed Mr. Shearer as the president of the arbitral tribunal.

VI. Judicial work of the Tribunal

A. *Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*

41. On 14 December 2009, proceedings were instituted before the Tribunal in relation to the delimitation of the maritime boundary in the Bay of Bengal between Bangladesh and Myanmar (case No. 16 on the list of cases). The dispute concerned the delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal with respect to the territorial sea, the exclusive economic zone and the continental shelf.

42. On 28 January 2010, the President adopted an order fixing the following time limits for the filing of the pleadings in the case: 1 July 2010 for the memorial of Bangladesh, and 1 December 2010 for the counter-memorial of Myanmar. The memorial and the counter-memorial were duly filed within the time limits so prescribed.

43. By a further order dated 17 March 2010, the Tribunal authorized the submission of a reply by Bangladesh and a rejoinder by Myanmar and fixed 15 March 2011 and 1 July 2011, respectively, for the filing of those pleadings. The reply and the rejoinder were duly filed within the time limits so prescribed.

44. Both Bangladesh and Myanmar chose judges ad hoc pursuant to article 17 of the Statute of the Tribunal and article 19 of the Rules of the Tribunal. Thomas Mensah was chosen as judge ad hoc by Bangladesh and Bernard Oxman was chosen as judge ad hoc by Myanmar.

45. On 19 August 2011, the President, after ascertaining the views of the parties, fixed 8 September 2011 as the date for the opening of the hearing.

46. Prior to the opening of the hearing, the Tribunal held initial deliberations on 5, 6 and 7 September 2011.

47. The parties presented their oral statements at 15 public sittings, held from 8 to 24 September 2011. In accordance with article 75, paragraph 2, of the Rules, the parties presented the following final submissions:

On behalf of Bangladesh, at the hearing on 22 September 2011:

> [O]n the basis of the facts and arguments set out in our Reply and during these oral proceedings, Bangladesh requests the Tribunal to adjudge and declare that:
>
> (1) The maritime boundary between Bangladesh and Myanmar in the territorial sea shall be that line first agreed between them in 1974 and reaffirmed in 2008. The coordinates for each of the seven points comprising the delimitation are those set forth in our written Submissions in the Memorial and Reply;
>
> (2) From Point 7, the maritime boundary between Bangladesh and Myanmar follows a line with a geodesic azimuth of 215° to the point located at the coordinates set forth in paragraph 2 of the Submissions as set out in the Reply; and
>
> (3) From that point, the maritime boundary between Bangladesh and Myanmar follows the contours of the 200-M limit drawn from Myanmar's normal baselines to the point located at the coordinates set forth in paragraph 3 of the Submissions as set out in the Reply.

On behalf of Myanmar, at the hearing on 24 September 2011:

> Having regard to the facts and law set out in the Counter-Memorial and the Rejoinder, and at the oral hearing, the Republic of the Union of Myanmar requests the Tribunal to adjudge and declare that:
>
> 1. The single maritime boundary between Myanmar and Bangladesh runs from point A to point G, as set out in the Rejoinder. [...]
>
> 2. From point G, the boundary line continues along the equidistance line in a south-west direction following a geodetic azimuth of 231° 37′ 50.9″ until it reaches the area where the rights of a third State may be affected.

48. The Tribunal delivered the judgment on 14 March 2012. The decision will be reported in the annual report of the Tribunal for 2012.

B. *Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area (Request for Advisory Opinion submitted to the Seabed Disputes Chamber)*

49. On 6 May 2010, the Council of the International Seabed Authority adopted decision ISBA/16/C/13, in which, in accordance with article 191 of the Convention, it requested the Seabed Disputes Chamber of the Tribunal to render an advisory opinion on the following questions:

> 1. What are the legal responsibilities and obligations of States parties to the Convention with respect to the sponsorship of activities in the Area in accordance with the Convention, in particular part XI, and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982?

2. What is the extent of liability of a State party for any failure to comply with the provisions of the Convention, in particular part XI, and the 1994 Agreement, by an entity whom it has sponsored under article 153, paragraph 2 (b), of the Convention?

3. What are the necessary and appropriate measures that a sponsoring State must take in order to fulfil its responsibility under the Convention, in particular article 139 and annex III, and the 1994 Agreement?

50. The request was received by the Seabed Disputes Chamber on 14 May 2010 and entered in the list of cases of the Tribunal as case No. 17.

51. On 18 May 2010, the President of the Seabed Disputes Chamber adopted an order fixing 9 August 2010 as the time limit for the presentation of written statements, and 14 September 2010 as the date for the opening of the oral proceedings. The time limit for the submission of written statements was extended to 19 August 2010, by a further order of the President of the Chamber dated 28 July 2010.

52. Within this time limit, 12 States parties to the Convention (Australia, Chile, China, Germany, the Republic of Korea, Mexico, Nauru, the Netherlands, the Philippines, Romania, the Russian Federation and the United Kingdom) filed written statements. Within the same time limit, written statements were also submitted by the International Seabed Authority, the Interoceanmetal Joint Organization and the International Union for Conservation of Nature and Natural Resources. One further organization (the United Nations Environment Programme) filed a statement after the time limit. In addition, a joint statement by two international non-governmental organizations (the Stichting Greenpeace Council (Greenpeace International) and the World Wide Fund for Nature) was submitted to the Chamber, together with a petition to intervene in the proceedings as amicus curiae. Pursuant to a decision of the Chamber, the joint statement was not considered as part of the documentation in the case. All the statements were posted on the website of the Tribunal.

53. Prior to the opening of the hearing, the Chamber met for initial deliberations on 10, 13 and 14 September 2010.

54. During the hearing held on 14, 15 and 16 September 2010, nine States parties (Argentina, Chile, Fiji, Germany, Mexico, Nauru, the Netherlands, the Russian Federation and the United Kingdom), the International Seabed Authority, the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Union for Conservation of Nature and Natural Resources presented oral statements to the Seabed Disputes Chamber.

55. The Seabed Disputes Chamber delivered its advisory opinion on 1 February 2011. The Chamber found that it had jurisdiction to entertain the request submitted to it by the Council of the International Seabed Authority and decided to respond to that request, as follows:

(a) In replying to question 1 (see para. 49 above), the Chamber explained that States sponsoring activities in the Area have two kinds of obligations. The first is "the obligation to ensure compliance by sponsored contractors with the terms of the contract and the obligations set out in the Convention and related instruments". This is an obligation of "due diligence", requiring the sponsoring State "to make

best possible efforts to secure compliance by the sponsored contractors" and "to take measures within its legal system" which "must consist of laws and regulations and administrative measures". The second kind concerns "direct obligations with which sponsoring States must comply independently of their obligation to ensure a certain conduct on the part of the sponsored contractors". According to the Chamber, the most important direct obligations are the obligation to assist the Authority set out in article 153, paragraph 4, of the Convention, the obligation to apply a precautionary approach as reflected in principle 15 of the Rio Declaration, the obligation to apply the "best environmental practices", the obligations to adopt measures to ensure the provision of guarantees in the event of an emergency order by the Authority for the protection of the marine environment, and the obligation to provide recourse for compensation;

(b) In response to question 2 (see para. 49 above), the Chamber stated that the liability of the sponsoring State arises from its failure to fulfil its obligations and that failure of the sponsored contractor to comply with its obligations does not in itself give rise to liability on the part of the sponsoring State. The Chamber observed that the conditions for the liability of the sponsoring State to arise are failure to carry out its responsibilities, and occurrence of damage. It explained that "the liability of the sponsoring State for failure to comply with its due diligence obligations requires that a causal link be established between such failure and damage". Moreover, the sponsoring State is absolved from liability if it has taken "all necessary and appropriate measures to secure effective compliance" by the sponsored contractor with its obligations. This exemption from liability does not apply to the failure to carry out its direct obligations;

(c) Finally, the Chamber answered question 3 (see para. 49 above) by stating that the sponsoring State is required, under the Convention, to adopt, within its legal system, laws and regulations and to take administrative measures. These laws and regulations and administrative measures have two distinct functions: to ensure compliance by the contractor with its obligations and to exempt the sponsoring State from liability. The Chamber observed that "the scope and extent of these laws and regulations and administrative measures depends on the legal system of the sponsoring State". Such laws and regulations and administrative measures "may include the establishment of enforcement mechanisms for active supervision of the activities of the sponsored contractor and for coordination between the activities of the sponsoring State and those of the Authority". They "should be in force at all times that a contract with the Authority is in force" and "should also cover the obligations of the contractor after the completion of the exploration phase". The Chamber also concluded that "the sponsoring State cannot be considered as complying with its obligations only by entering into a contractual arrangement with the contractor".

C. *The* M/V "Louisa" *Case (Saint Vincent and the Grenadines* v. *Kingdom of Spain)*

56. On 24 November 2010, Saint Vincent and the Grenadines instituted proceedings before the Tribunal against Spain in a dispute concerning the arrest of the *M/V Louisa* (case No. 18 on the list of cases). The application instituting proceedings included a request for the prescription of provisional measures under

article 290, paragraph 1, of the Convention. The Tribunal delivered its order on this request on 23 December 2010.

57. On 11 January 2011, the President held consultations with the representatives of the parties to ascertain their views with regard to questions of procedure concerning the merits in the case.

58. On 12 January 2011, the President issued an order fixing 11 May 2011 as the time limit for the filing of the memorial by Saint Vincent and the Grenadines and 11 October 2011 as the time limit for the filing of the counter-memorial by Spain. By a further order dated 28 April 2011, the time limits for the submission of these pleadings were extended to 10 June and 10 November 2011, respectively. The memorial of Saint Vincent and the Grenadines was duly filed within the extended time limit.

59. By an order dated 30 September 2011, the Tribunal authorized the submission of a reply by Saint Vincent and the Grenadines and a rejoinder by Spain and fixed 11 December 2011 and 11 February 2012, respectively, for the filing of those pleadings.

60. On 4 November 2011, the President issued an order extending once again the time limits for the submission of pleadings in this case. The time limit for the filing of the counter-memorial was extended to 12 December 2011, and those of the reply and the rejoinder to 10 February and 10 April 2012, respectively. The counter-memorial of Spain was duly filed within the extended time limit.

D. *The* M/V "Virginia G" *Case (Panama/Guinea-Bissau)*

61. On 4 July 2011, proceedings were instituted before the Tribunal in a dispute concerning the vessel *Virginia G* (case No. 19 on the list of cases).

62. By a letter dated 4 July 2011, the Agent of Panama notified the Tribunal of a special agreement concluded by exchange of notes, dated 29 June and 4 July 2011, between Panama and Guinea-Bissau, respectively, to submit to the Tribunal a dispute concerning the vessel *Virginia G*. In the light of the agreement of the parties, as expressed through their exchange of notes, to submit their dispute concerning the vessel *Virginia G* to the Tribunal for adjudication, and of the notification by the Agent of Panama filed on 4 July 2011, the case was entered in the list of cases as case No. 19.

63. On 17 August 2011, the President held consultations with the representatives of the parties to ascertain their views with regard to questions of procedure.

64. By an order dated 18 August 2011, the President fixed 4 January 2012 as the time limit for the filing of the memorial by Panama and 21 May 2012 as the time limit for the filing of the counter-memorial by Guinea-Bissau.

65. On 30 September 2011, the Tribunal adopted an order authorizing the submission of a reply by Panama and a rejoinder by Guinea-Bissau and fixing 21 August and 21 November 2012, respectively, for the filing of those pleadings.

66. Subsequently, by an order dated 23 December 2011, the President extended the time limits for the submission of the memorial and the counter-memorial to 23 January 2012 and 11 June 2012, respectively.

VII. Legal matters

67. During the period under review, the Tribunal devoted part of its two sessions to the consideration of legal and judicial matters. In this respect, the Tribunal examined various legal issues of relevance to its jurisdiction, its Rules and its judicial procedures. It also exchanged views on recent developments concerning law of the sea matters. This review was undertaken both by the Tribunal and by its chambers. Some of the main issues considered are noted below.

A. Jurisdiction, rules and judicial procedures of the Tribunal

1. Matters relating to article 292 of the Convention

68. During the thirty-first session, the Tribunal continued its consideration, on the basis of a document prepared by the Registry, of the question of the submission of applications, under article 292 of the Convention, for the prompt release of vessels and crews in cases relating to pollution of the marine environment. The Tribunal also considered the information prepared by the Registry on the practice of States in relation to cases in which crew members of vessels detained for pollution offences have been imprisoned, and the amount of security requested in cases in which vessels are detained.

2. Declarations made under articles 287 and 298 of the Convention

69. During the period under review, the Tribunal took note of the information presented by the Registry concerning the status of declarations made under articles 287 and 298 of the Convention. The Tribunal also took note of the information presented by the Registry regarding dispute-settlement clauses in international legal instruments relating to the law of the sea.

B. Chambers

1. Matters relating to the Seabed Disputes Chamber

70. During the period under review, the Seabed Disputes Chamber held meetings in which it considered matters falling under its responsibilities.

2. Matters relating to the Chamber for Fisheries Disputes

71. During the period under review, the Chamber for Fisheries Disputes considered reports prepared by the Registry concerning new developments in relation to the international legal regime of fisheries and fisheries subsidies.

3. Matters relating to the Chamber for Marine Environment Disputes

72. During the period under review, the Chamber for Marine Environment Disputes considered reports prepared by the Registry concerning marine special areas and the prompt release of vessels and crews in cases relating to pollution of the marine environment.

C. Recent developments in law of the sea matters

73. During the period under review, the Tribunal considered reports prepared by the Registry concerning recent developments in law of the sea matters.

VIII. Committees

74. During its thirty-second session, on 4 and 6 October 2011, the Tribunal reconstituted its committees for the period ending 30 September 2012.[1]

A. Committee on Budget and Finance

75. The members of the Committee on Budget and Finance selected on 6 October 2011 are as follows: Judge Akl, Chairman; Judges Jesus, Cot, Lucky, Türk, Bouguetaia, Golitsyn and Paik, members.

B. Committee on Rules and Judicial Practice

76. The members of the Committee on Rules and Judicial Practice selected on 4 October 2011 are as follows: President Yanai, Chair; Vice-President Hoffmann; Judges Marotta Rangel, Nelson, Chandrasekhara Rao, Wolfrum, Ndiaye, Cot, Kateka, Gao, Golitsyn (ex officio member as President of the Seabed Disputes Chamber), Kelly and Attard, members.

C. Committee on Staff and Administration

77. The members of the Committee on Staff and Administration selected on 4 October 2011 are as follows: Vice-President Hoffmann, Chair; Judges Wolfrum, Jesus, Gao, Golitsyn, Paik, Kelly and Attard, members.

D. Committee on Library, Archives and Publications

78. The members of the Committee on Library, Archives and Publications selected on 4 October 2011 are as follows: Judge Türk, Chair; Judges Marotta Rangel, Nelson, Wolfrum, Ndiaye, Pawlak, Paik and Kulyk, members.

E. Committee on Buildings and Electronic Systems

79. The members of the Committee on Buildings and Electronic Systems selected on 4 October 2011 are as follows: Judge Gao, Chair; Judges Akl, Wolfrum, Lucky, Kelly, Attard and Kulyk, members.

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[1] For the terms of reference of the committees, see: SPLOS/27, paras. 37-40; SPLOS/50, paras. 36-37; and SPLOS/136, para. 46.

F. Committee on Public Relations

80. The members of the Committee on Public Relations selected on 4 October 2011 are as follows: Judge Kateka, Chair; Judges Chandrasekhara Rao, Bouguetaia, Paik, Kelly, Attard and Kulyk, members.

IX. Privileges and immunities

A. General Agreement

81. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the seventh Meeting of States Parties on 23 May 1997, was deposited with the Secretary-General of the United Nations and opened for signature at United Nations Headquarters for 24 months as from 1 July 1997 (see SPLOS/24, para. 27). The Agreement entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. At the closing date for signature, 21 States had signed the Agreement. As at 31 December 2011, 40 States had ratified or acceded to it.

B. Headquarters Agreement

82. The Headquarters Agreement between the Tribunal and the Government of Germany was signed on 14 December 2004 by the President of the Tribunal and the State Secretary of the Federal Foreign Office of Germany. This Agreement entered into force on 1 May 2007. It defines the legal status of the Tribunal in Germany and regulates the relations between the Tribunal and the host country. It contains provisions on matters such as the law applicable to the headquarters district, the immunity of the Tribunal, its property, assets and funds, and the privileges, immunities and exemptions accorded to the members of the Tribunal and its officials, as well as to Agents representing parties, counsel and advocates, and witnesses and experts who are required to appear before the Tribunal.

X. Relations with the United Nations

83. At the 76th plenary meeting of the sixty-sixth session of the General Assembly, on 6 December 2011, the President of the Tribunal delivered a statement under agenda item 76 (a), entitled "Oceans and the law of the sea".[2] In his statement, the President reported to the General Assembly on the developments which had taken place with respect to the Tribunal since the last meeting of the Assembly, in particular, the decision it had rendered in case No. 18 and the advisory opinion given by the Seabed Disputes Chamber in case No. 17. Referring to case No. 16, the President highlighted the fact that this was the first maritime delimitation case before the Tribunal. In his statement, the President also mentioned the submission of a new case on the merits to the Tribunal (case No. 19). He reported on the Tribunal's capacity-building programmes for Government officials

[2] The text of the statements is available on the website of the Tribunal: http://www.itlos.org or http://www.tidm.org.

and researchers on dispute settlement under the Convention, and on the Tribunal's internship programme.

XI. Premises of the Tribunal

84. The terms and conditions under which the premises are made available to the Tribunal by Germany are established in the Agreement of 18 October 2000 between the International Tribunal for the Law of the Sea and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg.

85. During the period under review the Registry, in cooperation with the Federal Building Authorities, has made several improvements to the Tribunal's equipment and systems (in particular as concerns the media technology system in the courtroom of the Tribunal). Construction work to replace defective glass panes on the roof of the Tribunal building was completed in August 2011.

XII. Finances

A. Budgetary matters

1. Budget of the Tribunal for 2013-2014

86. During the thirty-second session of the Tribunal, the Committee on Budget and Finance gave preliminary consideration to the budget of the Tribunal for the financial period 2013-2014 on the basis of draft proposals submitted by the Registrar.

2. Report on budgetary matters for the financial periods 2009-2010 and 2011-2012

87. At its thirty-first session, the Tribunal considered the report presented by the Registrar on budgetary matters for the financial periods 2009-2010 and 2011-2012. The report, which was submitted to the twenty-first Meeting of States Parties for its consideration (see SPLOS/224), included the following: a performance report for 2009-2010; a report on action taken pursuant to the decision of the twentieth Meeting of States Parties concerning the adjustment of remuneration of the members of the Tribunal; matters relating to the financial period 2011-2012; and a report on action taken pursuant to the Financial Regulations of the Tribunal (the Tribunal's investments, the Korean International Cooperation Agency (KOICA) trust fund, the Nippon Foundation trust fund, and the Trust Fund for the Law of the Sea).

3. Cash flow situation

88. At its thirty-first and thirty-second sessions, the Tribunal took note of the information presented by the Registrar concerning the cash flow situation of the Tribunal.

B. Status of contributions

89. As at 31 December 2011, 118 States parties had made contributions to the year 2011 of the 2011-2012 budget, totalling €9,682,769, while 44 States parties had not made any payments with respect to their assessed contributions for 2011. The balance of unpaid contributions with respect to the first year of the 2011-2012 budget was €516,531.

90. Furthermore, assessed contributions amounting to €222,408 in respect of the budgets of the Tribnual for the financial periods 1996-1997 to 2009-2010 were still pending as at 31 December 2011.

91. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to €738,939 as at 31 December 2011. In July 2011, the Registrar sent the States parties notes verbales concerning their assessed contributions for the second year of the 2011-2012 budget, and containing information about outstanding contributions to the previous budgets. In December 2011, the Registrar sent notes verbales to the States parties concerned, reminding them of their outstanding contributions to the budgets of the Tribunal.

C. Financial Regulations and Rules

92. The Financial Regulations of the Tribunal, adopted by the thirteenth Meeting of States Parties on 12 June 2003, became effective on 1 January 2004.[3]

93. Pursuant to financial regulation 10.1 (a), the Registrar must establish detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy. In accordance with this provision the Tribunal, at its seventeenth session, approved the Financial Rules, which had been prepared by the Registrar and reviewed by the Committee on Budget and Finance. The Financial Rules were submitted to the fourteenth Meeting of States Parties for its consideration. The Meeting took note of the Financial Rules of the Tribunal, which, according to rule 114.1, became effective on 1 January 2005 (the Financial Regulations and Rules of the Tribunal are contained in document SPLOS/120).

D. Conditions of service and compensation for members of the Tribunal

94. During the period under review, the twenty-first Meeting of States Parties adopted a decision on the adjustment mechanism for the remuneration of members of the Tribunal (SPLOS/230). Pursuant to that decision, on the occasion of future revisions to the base scale applicable to staff of the United Nations in the Professional and higher categories that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding readjustment in the post adjustment multipliers, the annual base salary of the members of the Tribunal would also be adjusted by the same percentage and at the same time as in the case of judges of the International Court of Justice.

[3] Financial Regulations, regulation 14.1.

E. Appointment of the auditor for 2009-2012

95. Pursuant to financial regulation 12.1, the eighteenth Meeting of States Parties appointed BDO Deutsche Warentreuhand AG as the Tribunal's auditor for the financial periods 2009-2010 and 2011-2012 (see SPLOS/184, para. 51).

F. Trust funds and donations

96. On the basis of resolution 55/7 on "Oceans and the law of the sea" adopted by the General Assembly on 30 October 2000, a voluntary trust fund has been established by the Secretary-General to assist States in connection with disputes to be settled by the Tribunal. According to information provided by the Division for Ocean Affairs and the Law of the Sea of the United Nations Office of Legal Affairs, contributions to the trust fund were made in 2011 by the Government of Côte d'Ivoire and the Government of Finland, and the financial statements of the trust fund showed a balance of approximately $175,000 as at 31 December 2011.

97. In 2004, KOICA provided a grant to fund the participation of interns from developing countries in the internship programme of the Tribunal. A trust fund has been established by the Registrar for this purpose, pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. In 2007, the Nippon Foundation provided a grant to fund the participation of five fellows in a capacity-building and training programme on dispute settlement under the Convention. A trust fund has been established by the Registrar for this purpose, pursuant to regulation 6.5 of the Financial Regulations of the Tribunal.

98. Pursuant to a decision of the Tribunal at its twenty-eighth session, the Registrar has established a new trust fund for the law of the sea, whose terms of reference have been adopted by the Tribunal and submitted for consideration to the twentieth Meeting of States Parties. The trust fund is intended to promote human resource development in developing countries in the law of the sea and maritime affairs in general. Contributions made to the trust fund will be used to provide applicants from developing countries with financial assistance to enable them to participate in the Tribunal's internship programme and the summer academy. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make voluntary financial or other contributions to the trust fund. Two contributions to the trust fund, in the amounts of €25,000 and €15,000, were made respectively in April 2010 and October 2011 by a company from the Republic of Korea and operating in Hamburg and by the Korea Maritime Institute.

XIII. Administrative matters

A. Staff Regulations and Staff Rules

99. During the period under review, the Tribunal approved the recommendation of the Committee on Staff and Administration to adopt amendments to the Staff Regulations concerning the salary scale for staff in the Professional and higher categories. The amendment is intended to bring the salary scale of the staff of the

Tribunal into line with the applicable scales adopted for the United Nations common system, pursuant to regulation 12.6 of the Staff Regulations.

100. During the period under review, in the light of the recommendation of the Committee on Staff and Administration, the Tribunal took note of the amendments proposed to the Staff Rules of the Tribunal, inter alia, concerning pensionable remuneration for staff in the Professional and higher categories, the salary scale for staff in the General Service category and the definition of the category of "temporary appointment". The Tribunal also took note of other amendments proposed to the Staff Rules of the Tribunal in the light of the revised Staff Rules of the United Nations. Pursuant to regulations 12.2, 12.3 and 12.4 of the Staff Regulations, the amendments to the Staff Rules which were provisional entered into full force and effect on 1 January 2012.

B. Staff recruitment

101. At the end of 2011, recruitment to the posts of Reviser/Translator (P-4) and Associate Legal Officer (P-2) was in progress. A list of the staff members of the Registry as at 31 December 2011 is contained in annex I to the present report.

102. Temporary personnel were recruited to assist the Tribunal during its thirty-first and thirty-second sessions, and during the hearing and deliberations in cases Nos. 16 and 17.

103. The staff of the Registry consists of 37 staff members, of whom 17 are in the Professional and higher categories. The recruitment of staff members in the Professional category, excluding language staff, is subject to the principle of equitable geographical distribution, in accordance with regulation 4.2 of the Staff Regulations. This regulation provides that:

> The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity for securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Taking into account the small number of staff in the Registry of the Tribunal, a flexible regional approach has been followed in this regard.

104. The Tribunal has taken steps to ensure that vacancy announcements are disseminated in such a way as to recruit staff on as wide a geographical basis as possible. Information on vacancies is transmitted to the embassies of the States parties to the Convention in Berlin, and to the permanent missions in New York. The information is also posted on the Tribunal's website and published in the press.

105. The Tribunal applies, mutatis mutandis, the recruitment procedures followed by the United Nations. In accordance with these procedures, the principle of geographical distribution does not apply to the recruitment of General Service staff. The Tribunal, however, has also made efforts to recruit General Service staff on as wide a geographical basis as possible.

C. Staff Pension Committee

106. Pursuant to the proposal of the Tribunal, the sixteenth Meeting of States Parties decided that a Staff Pension Committee should be established with the following composition: (a) one member and one alternate member to be chosen by the Meeting; (b) one member and one alternate member to be appointed by the Registrar; and (c) one member and one alternate member to be elected by the staff. Initially, the term of office of members and alternates was two years. The twentieth Meeting of States Parties decided to extend the term of office to three years. The current president of the Committee is Abdoul Aziz Ndiaye (Embassy of Senegal in Berlin).

D. Language classes at the Tribunal

107. English and French classes for Registry staff members were held in 2011.

E. Internship programme

108. The internship programme of the Tribunal was established in 1997. In 2004, the KOICA grant was set up to assist applicants from developing countries in covering the costs incurred by participating in the Tribunal's internship programme. As at the end of 2011, a total of 235 interns from 78 States had participated in the programme, with 87 interns benefiting from funding from the KOICA grant.

109. During 2011, 12 persons from 12 different countries served periods of internship at the Tribunal. A list of participants in the internship programme during 2011 is contained in annex II to the present report.

110. An information sheet and the application form for the programme can be obtained from the Registry or from the Tribunal's website: http://www.itlos.org (English) and http://www.tidm.org (French). During its twenty-eighth session, the Tribunal decided to establish a "Trust fund for the law of the sea" to encourage the participation of nationals of developing countries in the Tribunal's internship programme and the summer academy.

F. Capacity-building and training programme

111. In 2011, for the fifth time, a capacity-building and training programme on dispute settlement under the Convention was conducted with the support of the Nippon Foundation. The Nippon Foundation grant was set up in 2007 to provide capacity-building and training to fellows and assist them in covering the costs incurred by participating in the programme. During the programme in 2011, participants attended lectures on topical issues related to the law of the sea and maritime law and training courses on negotiation and delimitation. They also visited institutions working in the fields of law of the sea, maritime law and settlement of disputes (inter alia, the International Court of Justice, the International Criminal Court, the International Hydrographic Organization and the International Maritime Organization). At the same time, participants carried out individual research on selected topics.

112. Nationals of Angola, France, Jamaica, Panama, Senegal, Tonga and Viet Nam are participating in the 2011-2012 programme (July 2011-March 2012). A list of Nippon fellows is contained in annex III to the present report.

XIV. Visits

113. During the period under review, the Tribunal received visitors, in particular, holders of political offices, diplomats, members of judicial authorities and senior officials, researchers, academics, lawyers and members of the legal profession.

XV. Buildings and electronic systems

A. Requirements for the permanent premises

114. During the thirty-first and thirty-second sessions of the Tribunal, the Registrar presented reports on: building arrangements; the use of the premises of the Tribunal; the development of electronic systems; courtroom technology and security; the maintenance and updating of electronic systems; and artwork at the Tribunal. The reports were reviewed by the Committee on Buildings and Electronic Systems with a view to improving the working conditions of the Tribunal.

B. Use of the premises and public access

115. During 2011, the following events were held on the premises of the Tribunal:

(a) Media training for the United Nations officers course, organized by the *Führungsakademie der Bundeswehr*, held in the small courtroom on 29 March 2011;

(b) 125th anniversary celebration of the *Freiwillige Feuerwehr Nienstedten* (auxiliary fire brigade), held in the courtroom and rotunda on 3 September 2011;

(c) Meeting of State Secretaries of Justice, held in the Villa Schröder on 15 and 16 September 2011;

(d) Conference entitled "Protection of the sea — Vision for oceans and seas — New ways of working together — Geopolitical Dimensions of Environmental Health — Model Area: Baltic Sea Region", organized by the Baltic Sea Forum, held in the courtroom on 18 November 2011;

(e) Symposium on "Responsibility and liability in the maritime context", organized by the Law of the Sea and Maritime Law Institute of the University of Hamburg, held in the courtroom on 19 November 2011.

116. In addition, the premises of the Tribunal were visited by approximately 1,600 people on organized tours in 2011.

XVI. Library facilities and archives

117. During the thirty-first and thirty-second sessions of the Tribunal, the Registrar reported on several matters pertaining to the Library, including the collections, online databases and bibliography. He also presented reports on the archive and

document centre at the Tribunal, including the archival databases and mobile exhibition.

118. A list of donors to the Library is contained in annex IV to the present report.

XVII. Publications

119. The status of the Tribunal's publications was reviewed by the Committee on Library, Archives and Publications during the thirty-first and thirty-second sessions of the Tribunal.

120. During the period under review, the following volumes were published:

(a) *ITLOS Yearbook — TIDM Annuaire 2010*;

(b) *ITLOS Reports of Judgments, Advisory Opinions and Orders 2008-2010, Vol. 10*;

(c) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2007, Vol. 14*.

XVIII. Public relations

121. During the period under review, the Committee on Public Relations gave consideration to a set of measures to provide information on the work of the Tribunal, including a new design for the Tribunal's website, dissemination of information on the Tribunal, and participation by representatives of the Tribunal in international legal meetings.

XIX. Summer academy

122. The International Foundation for the Law of the Sea held the fifth summer academy on the premises of the Tribunal from 24 July to 19 August 2011. The academy focused on the theme "*Promoting ocean governance and peaceful settlement of disputes*". Twenty-nine participants from 24 different countries attended lectures on issues relating to both law of the sea and maritime law. The lectures were given by judges of the Tribunal and by experts, practitioners, representatives of international organizations and scientists.

XX. Public information and website

123. The Tribunal publicized its work by means of its website, press releases and briefings by the Registry, and through the distribution of its judgments, orders and publications.

124. The website can be accessed at the following addresses: http://www.itlos.org and http://www.tidm.org. The texts of judgments and orders of the Tribunal, and verbatim records of hearings, are available on the website, together with other information about the Tribunal.

125. In 2011, judges and staff members of the Registry also delivered lectures and published papers on the work of the Tribunal.

Annex I

Information on staff (2011)

Professional and higher categories

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Gautier, Philippe	Registrar	Belgium	ASG	ASG
Kim, Doo-young	Deputy Registrar	Republic of Korea	D-2	D-2
Vacant	Chief of Administration		P-5	
Scharfer, James	Head of Linguistic Services	France	P-5	P-5
Savadogo, Louis	Legal Officer	Burkina Faso	P-4	P-4
Hinrichs, Ximena	Legal Officer	Chile	P-4	P-4
Vacant	Translator/Reviser		P-4	
Mizerska-Dyba, Elzbieta	Head of Library and Archives	Poland	P-4	P-4
Castro Espinoza, Jose	Head of Budget and Finance	Honduras	P-4	P-4
Gbadoe, Alfred	Information Technology Officer	Germany	P-3	P-3
Gaba Kpayedo, Kafui	Administrative Officer (Support/Building Management)	Togo	P-3	P-3
Rostan, Jean-Luc	Translator (French)	France	P-3	P-3
Füracker, Matthias	Legal Officer	Germany	P-3	P-3
Vacant	Associate Legal Officer		P-2	
Cummings, Philippa	Associate Archivist	Canada	P-2	P-2
Ritter, Roman	Associate Administrative Officer (Contributions/Budget)	Germany	P-2	P-2
Ritter, Julia	Press Officer	United Kingdom	P-2	P-2

Total posts: 17

General Service

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Vorbeck, Antje	Administrative Assistant (Personnel)	Germany	G-7	G-7
Bothe, Andreas	Building Coordinator	Germany	G-7	G-7
Egert, Anke	Publications/Personal Assistant (Registrar)	Germany	G-7	G-7
Winkelmann, Jacqueline	Administrative Assistant (Procurement)	Germany	G-7	G-7
Mba, Patrice	Information Systems Assistant	Cameroon	G-7	G-7
Becker, Martine	Linguistic Assistant/Judiciary Support	France	G-6	G-6
Nas, Ellen	Personal Assistant (President)	Netherlands	G-6	G-6
Albiez, Berit	Linguistic Assistant/Judiciary Support	Germany	G-6	G-6
Hartmann-Vereshchak, Svitlana	Finance Assistant	Ukraine	G-6	G-6
Naegler, Thorsten	Administrative Assistant (Contributions)	Germany	G-6	G-6
Karanja, Elizabeth	Administrative Assistant	Kenya	G-6	G-6
Sadler, Gerardine	Administrative Assistant	Singapore	G-5	G-5
Bartlett, Emma	Personnel Assistant	United Kingdom	G-5	G-5
Borchert, Anne-Charlotte	Personal Assistant (Deputy Registrar)	France	G-5	G-5
Heim, Svenja	Library Assistant	Germany	G-5	G-5
Boeck, Henrik	Finance Assistant (Accounts Payable)	Denmark	G-5	G-5
Duddek, Sven	Senior Security Officer/Building Superintendent	Germany	G-4	G-4
Marzahn, Inga	Administrative Assistant	Germany	G-4	G-4
Aziamble, Papagne	Administrative Support/Driver	Togo	G-4	G-4
Ntinugwa, Chuks	Security Officer/Driver	Germany	G-3	G-3

Total posts: 20

Annex II

Information on interns (2011)

Name	*State*	*Period*
Albertani, Lorella	Italy	July-September
Belecky, Michael	Canada	January-March
Colombier, Camille	France	April-June
Gadiel Nnko, Alma	United Republic of Tanzania	July-September
Huang, Yuna	China	April-June
Le, Thi Thanh Mai	Viet Nam	July-September
Kong Mukwele, Sheila	Cameroon	April-June
Praprotnik, Tina	Slovenia	June-July
Rajan, Rajashree	Singapore	April-June
Shimizu, Aiko	Japan	October-December
Urbonaite, Neringa	Lithuania	October-December
Youssef, Mohamed	Egypt	October-December

Annex III

Information on Nippon fellows (2011-2012)

Marie Bourrel (France)

Ms. Bourrel was born on 24 February 1981 (30). She is fluent in French (mother tongue) and English and is currently a PhD candidate at the University of Nantes, France. In addition to a Certificate on International Criminal Law obtained from the University of Toulouse, France, she holds a Masters in Maritime Law and the Law of the Sea from the University of Nantes.

Margareth Galho (Angola)

Ms. Galho was born on 9 July 1984 (27). She is fluent in English and holds the following degrees from the American University of Athens, Greece: Bachelor of Political Science, Bachelor of English Law and Masters in Maritime Law. Since March 2010, Ms. Galho has been working as a Legal Adviser for the Inter-Ministerial Commission for the Delimitation of the Outer Boundaries, under the supervision of the Ministry of National Defence. Her duties include the preparation of documents to be discussed by the members of the Commission as well as the preparation of documents relating to law of the sea in general.

Lisa Grant (Jamaica)

Ms. Grant was born on 23 October 1969 (41). She is fluent in English (mother tongue) and has a Masters degree in International Law (International Trade Law) from McGill University, Canada. She obtained a Certificate of Law from the Law School, Kingston, Jamaica, and an LLB and BA (History and Politics) from the University of the West Indies, Barbados. Since 2002, she has been working as the Director of Heritage Protection Research and Information for the Jamaica National Heritage Trust. Her tasks include activities concerning the regulation and protection of national heritage. The Trust works together with the Ministry responsible for cultural matters and is participating in the creation and implementation of a Protected Areas System.

Tiofane Ndiaye (Senegal)

Ms. Ndiaye was born on 9 May 1975 (36). She is fluent in French and English and has a Diploma in Law and a Masters in Law from the University Cheikh Anta Diop, Dakar, Senegal. She has a second diploma in Maritime Law from the University of Perpignan, France. Since November 2009, she has been working as the Head of the Department of Maritime Transport, Harbours and Infrastructure of the National Agency for Maritime Affairs, under the Ministry of Maritime Economy. Her tasks include monitoring and managing projects related to maritime development, in particular the implementation of maritime conventions.

Le Duy Tran (Viet Nam)

Mr. Tran was born on 3 March 1986 (25). He is fluent in English and has an LLB from the Diplomatic Academy of Vietnam. Since 2009, he has been working as an official at the Department of International Law and Treaties of the Ministry of Foreign Affairs. The participant is a legal expert at the Division of Territorial Issues.

He gives legal opinions related to law of the sea issues, such as the cooperation between Viet Nam and the Philippines and cooperation between Viet Nam and Malaysia (continental shelf issues).

Taniela Tuita (Tonga)

Mr. Tuita was born on 19 April 1973 (38). He is fluent in English and has a Bachelor in Disaster Management from the University of New England, Australia. He also has a Masters in International Law of the Sea from the University of Wollongong, Australia. Since 2009, he has been working as Commanding Officer for the Tonga Defence Services. His tasks include representing the Tonga Defence Services at the Tonga National Committee on Maritime Boundaries.

Jonathan Vargas (Panama)

Mr. Vargas was born on 7 May 1986 (25). He is fluent in English and has a degree in Law and Political Science and a Masters in Maritime Law from the University of Santa Maria La Antigua, Panama. Since 2005, he has been working as a Legal Adviser for the Panama Maritime Authority. His duties are to provide legal advice on matters related to the application of maritime laws and regulations.

Annex IV

List of donors to the Library of the International Tribunal for the Law of the Sea (2011)[a]

Botschaft der Republik Chile, Berlin

Brill USA, Inc., Boston, Massachusetts, United States of America

Division for Ocean Affairs and the Law of the Sea of the United Nations, New York

European Court of Human Rights, Strasbourg, France

Mehmet Semih Gemalmaz, Istanbul University, Faculty of Law, Turkey

Institute of International Public Law and International Relations of Thessaloniki, Thessaloniki, Greece

Inter-American Court of Human Rights, San José

Inter-American Tropical Tuna Commission, La Jolla, California, United States of America

International Court of Justice, The Hague

International Maritime Law Institute, Msida, Malta

International Seabed Authority, Kingston

International Whaling Commission, Cambridge, United Kingdom of Great Britain and Northern Ireland

Japan Branch of the International Law Association, University of Tokyo, Faculty of Law, Tokyo

Juris Publishing, Huntington, New York, United States of America

Ambassador Thommy Koh, Ministry of Foreign Affairs, Singapore

Korea Martime Institute, Korea Dokdo Research Center, Seoul

Ana Gemma López Martín, Profesora Titular de Derecho Internacional Público, Facultad de Derecho, Universidad Complutense, Madrid

Mare, Die Zeitschrift der Meere, Hamburg, Germany

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany

Northwest Atlantic Fisheries Organization, Dartmouth, Nova Scotia, Canada

Ernest Petrič, President, The Constitutional Court of the Republic of Slovenia, Ljubljana

José Manuel Sobrino Heredia, Director, Catedrático de Derecho Internacional Público, and Adela Rey Aneiros, Profesora Titular de Derecho Internacional Público, Facultad de Derecho, Universidade da Coruña, A Coruña, Spain

[a] As at 31 December 2011.

UNESCO Intergovernmental Oceanographic Commission, Paris

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel, Kiel, Germany

World Trade Organization, Geneva

United Nations Convention on the Law of the Sea SPLOS/242

Meeting of States Parties

Distr.: General
9 April 2012

Original: English

Twenty-second Meeting
New York, 4-11 June 2012

Report on budgetary matters for the financial periods 2009-2010 and 2011-2012

Presented by the Registrar of the International Tribunal for the Law of the Sea

I. Surrender of cash surplus for the financial period 2009-2010

A. Introduction

1. In June 2011, the twenty-first Meeting of States Parties took note (see SPLOS/231, para. 35) of the report of the external auditor for the financial period 2009-2010 (SPLOS/223), which had been submitted to the Meeting by the Tribunal. According to the report, the final excess of income over expenditures as at 31 December 2010 amounted to €2,059,041.

2. As explained in the report on budgetary matters for the period 2009-2010 (SPLOS/224, paras. 2 and 3), the performance for this financial period is largely due to the level of expenditure incurred under part C of the budget (case-related costs). As regards recurrent and non-recurrent expenditures (parts A and B), the budget was utilized up to 97.52 per cent. With respect to case-related costs (part C), the appropriation amount of €2,564,700 was, as in previous budgetary periods, calculated on the basis of four urgent proceedings. During the financial period concerned, the Tribunal dealt with one urgent proceeding (Case No. 18, *The M/V "Louisa" Case (Saint Vincent and the Grenadines* v. *Kingdom of Spain)*) and the Seabed Dispute Chamber of the Tribunal (composed of 11 members selected by a majority of the elected members of the Tribunal from among them) dealt with a request for an advisory opinion (Case No. 17) submitted to it by the International Seabed Authority. Under article 191 of the Convention, such a request has to be dealt with by the Chamber as a matter of urgency. As a result, savings amounting to €1,565,549 were made under part C.

3. Under "staff costs" there were savings amounting to €60,898. This was due to vacant positions in the Registry during the period in question. The final balance of the budget section "judges" stands at €129,649, although an overexpenditure totalling €54,041 occurred in the budget lines "annual allowances" and "judges'

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pension scheme". The final balance is a result of savings realized under the budget lines "special allowances", "travel to sessions" and "common costs". It may be noted that savings under "special allowances" came mainly from a reduction in the rate of daily subsistence allowance for Hamburg to €247 during 2009-2010, while the budget was based on an amount of €267.

B. Provisional cash surplus

4. Under regulation 4.4 of the Financial Regulations, the provisional cash surplus is determined by establishing the balance between credits (assessed contributions actually received and miscellaneous income received and additional appropriations) and charges (disbursements against appropriations and provisions for unliquidated obligations). For the financial period 2009-2010, the final excess of income over expenditures amounts to €2,059,041, and is calculated as follows (in euros):

Credit	17 680 983
Reserve to finance additional appropriation	207 450
Charges	(15 829 392)
Final excess of income over expenditure	**2 059 041**

Pursuant to regulation 4.3 of the Financial Regulations, the amount of unpaid contributions should be deducted from this balance.

5. On this basis, the provisional cash surplus for the 2009-2010 financial period was determined to be €1,690,086. This amount is based on the audit report on the financial statements of the Tribunal for the period 2009-2010 (see SPLOS/223) and calculated as follows (in euros):

Credit	17 680 983
Reserve to finance additional appropriation	207 450
Charges	(15 829 392)
Cancellation of the 2007-2008 obligations (surrendered with the 2007-2008 cash surplus)	(72 713)
Unpaid contributions	(296 242)
Provisional cash surplus	**1 690 086**

C. Cash surplus

6. Under regulation 4.4 of the Financial Regulations, the cash surplus is determined by crediting to the provisional cash surplus any arrears of prior periods' contributions received during the financial period and any savings from the provisions made for unliquidated obligations for the financial period.

7. It should be noted that an amount of €176,704, forming part of the cash surplus for the financial period 2009-2010, has already been surrendered and deducted from the assessed contributions of the States parties for 2012 in

accordance with the decision taken by the twenty-first Meeting of States Parties (see SPLOS/231, para. 53). Taking this decision into account, the cash surplus for the financial period 2009-2010 is determined to stand at €1,873,979 as at 31 December 2011, as follows:

> Provisional cash surplus (€1,690,086) + arrears of prior periods' contributions received in 2011 (€251,923) + savings from the provisions made from unliquidated obligations (€108,674) – surrender of part of the cash surplus for the 2009-2010 financial period (SPLOS/203) (€176,704) = cash surplus to be surrendered to the States parties (€1,873,979).

8. The cash surplus, as determined by the Registrar in accordance with paragraph 6 above, was reviewed by the auditor on 27 January 2012. The auditor certified that the cash surplus for the 2009-2010 financial period as at 31 December 2011 amounted to €1,873,979 (see annex I to the present report).

D. Surrender of cash surplus

9. Under regulation 4.5, the cash surplus will be surrendered as follows:

(a) *Apportionment of cash surplus*

The cash surplus, determined as outlined above, will be apportioned among the States parties in proportion to their contributions as determined for the financial period 2009-2010, to which the surplus relates.

(b) *Surrender of cash surplus*

The cash surplus for the financial period 2009-2010 thus apportioned to the States parties will:

(i) Be surrendered to the States parties, provided that their contribution for the financial period 2009-2010 has been paid in full;

(ii) Be applied to liquidate first, in whole or in part, any arrears in contributions.

(c) *Retention of cash surplus apportioned but not surrendered*

Any cash surplus apportioned to the States parties but not surrendered owing to non-payment or partial payment of the contribution for the financial period in question will be retained by the Registrar until such time as the contribution for that financial period is paid in full.

10. In accordance with regulation 4.5 of the Financial Regulations, the Tribunal decided on 29 March 2012 that an amount of €1,873,979 would be surrendered and deducted from the contributions of States parties for 2013 and for earlier financial periods, where applicable.

II. Provisional performance report for 2011

11. In June 2010, the twentieth Meeting of States Parties approved a budgetary amount of €20,398,600 for the financial period 2011-2012 (SPLOS/217, para. 1).

12. Attached as annex II is the performance report for the year 2011, which is provisional since it concerns the first year (2011) of the 2011-2012 budget period.

13. As shown in the provisional performance report for 2011 (see annex II), the total expenditure for that year stands provisionally at €8,714,115, representing 78.42 per cent of the appropriations in the amount of €11,111,750 approved for 2011. The underperformance can largely be explained by savings amounting to €1,846,129 under "case-related costs". This amount will be used to cover expenses relating to deliberations in Case No. 16 in 2012. If the case-related costs (€3,228,400) were excluded, the performance rate for costs would be 93 per cent.

III. Report on action taken pursuant to the decision concerning budgetary matters for the 2011-2012 financial period taken by the twenty-first Meeting of States Parties

14. On the proposal of the Registrar, the twenty-first Meeting of States Parties decided in June 2011 that an amount of €38,593 which had been set aside in a special account to reimburse officials of the Tribunal obliged to pay national taxes in respect of the remuneration paid to them by the Tribunal in 2004 and subsequent years should be surrendered and deducted from the contributions of the State parties to the 2012 budget of the Tribunal in accordance with the relevant provision of the Financial Regulations and Rules of the Tribunal (see SPLOS/231, para. 52).

15. In accordance with that decision, the amount of €38,593 was surrendered and deducted from the assessed contributions of the States parties to the 2012 budget of the Tribunal, where applicable.

16. It was also decided that, since most of the additional cost of implementing the new salary system for the members of the Tribunal had been financed from savings under other budget lines in the budget section "judges", the unused balance (€176,704) of the additional appropriation (€207,450) would be surrendered on an anticipatory basis to the States parties and deducted from their contributions to the 2012 budget of the Tribunal in accordance with the Financial Regulations and Rules of the Tribunal (see SPLOS/231, para. 53).

17. In accordance with that decision, the amount of €176,704 was surrendered and deducted from the assessed contributions of the States parties to the 2012 budget of the Tribunal, where applicable.

IV. Adjustment of the special allowance of the President and that of the Vice-President when acting as President

18. The special allowance of the President of the Tribunal was fixed at $15,000 per annum by the fourth Meeting of States Parties in 1996 in line with the amount of special allowance paid to the President of the International Court of Justice. Likewise, the special allowance of the Vice-President of the Tribunal, when acting as President, was fixed at $94 per day.

19. The special allowance of the President of the International Court of Justice and that of its Vice-President, when acting as President, were increased to $25,000 per

annum and $156 per day, respectively, as of 1 January 2011, pursuant to General Assembly resolution 65/258.

20. In line with the principle that the level of remuneration and allowances of judges of the International Court of Justice is the comparator for the determination of the remuneration and allowances of judges of the Tribunal, and taking into account the established practice and decisions taken in this respect by the Meeting of States Parties, it is proposed that the special allowance of the President of the Tribunal and that of its Vice-President, when acting as President, be revised to $25,000 per annum and $156 per day, respectively, as of 1 July 2012. Should this proposal be approved, an additional amount of €4,647 required to implement the revised special allowance would be charged against the budget line "annual allowances". No additional budgetary appropriation is requested to finance this expenditure.

V. Report on action taken pursuant to the Financial Regulations of the Tribunal

A. Investment of funds of the Tribunal

21. In respect of the investment of funds of the Tribunal, regulation 9 of the Financial Regulations of the Tribunal stipulates the following:

> 9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.
>
> [...]
>
> 9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

22. During 2011, the Tribunal's funds were kept in JP Morgan Chase Bank and Deutsche Bank in United States dollars and euros as short-term investments, which are investments made for less than 12 months according to rule 109.1 of the Financial Rules of the Tribunal. The funds yielded interest amounting to €53,951 during 2011. This earned interest has been credited to miscellaneous income in accordance with regulation 9.2 of the Financial Regulations of the Tribunal.

B. Korea International Cooperation Agency trust fund

23. The Korea International Cooperation Agency (KOICA) offered to provide a grant of $150,000 pursuant to a memorandum of understanding signed between the Tribunal and KOICA on 9 March 2004. Its object is to finance the expenses of participants from developing countries in the Tribunal's internship programme.

24. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account named "KOICA Grant" was set up with Deutsche Bank for this purpose. When the funds, amounting to $150,000, were received from KOICA in March 2004, they were converted into €120,600 on the basis of the United Nations exchange rate prevailing at the time.

25. In March 2006, the Tribunal received from KOICA its second contribution to the KOICA trust fund, in the amount of $100,000. This amount was converted into €84,400 on the basis of the United Nations exchange rate.

26. Following the signing of additional memorandums of understanding between the Tribunal and KOICA, further contributions in the total amount of €422,045 were received during the period 2007-2009. An amount of €213,645 was paid to the Tribunal in February 2007, €128,400 in May 2008 and €80,000 in June 2009 for the purpose of financing the internship programme of the Tribunal, the organization of regional workshops and the participation of students from developing countries in the summer academy organized by the International Foundation for the Law of the Sea.

27. The performance of the KOICA grant as at 31 December 2011, which is to be reported to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal, is as follows (in euros):

Contribution	0.00
Interest income	0.00
Total income	**0.00**
Expenditure on participants and authorized activity	(19 782.94)
Bank charges	(243.08)
Account receivable	(234.00)
Reserves from prior periods	35 203.92
Bank balance	**14 943.90**

C. Nippon Foundation trust fund

28. In March 2007, the Tribunal and the Nippon Foundation signed the Nippon Foundation grant agreement. Pursuant to the agreement, the Nippon Foundation agreed to contribute an amount of €200,000 to the Nippon Foundation-International Tribunal for the Law of the Sea Capacity-Building and Training Programme on Dispute Settlement under the United Nations Convention on the Law of the Sea.

29. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account named "Nippon Foundation Grant" was set up with Deutsche Bank. The purpose of the grant is to finance the expenses of participants from developing countries in the aforementioned programme.

30. The second contribution in the amount of €200,000 was made to the Tribunal on 27 March 2008 and the third, in the same amount, on 27 March 2009. Two additional contributions in the amount of €230,000 each were received on 26 March 2010 and 30 March 2011. The performance of the Nippon Foundation Grant as at 31 December 2011, which is to be reported to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal, is as follows (in euros):

Contribution of 30 March 2011	230 000.00
Interest income	1 736.00
Total income	**231 736.00**
Expenditure on participants and authorized activity	(229 390.00)
Bank charges	(329.00)
Account receivable	(5 897.00)
Loss on exchange	(9.00)
Investment of funds	(180 000.00)
Prior period reserves	208 142.00
Bank balance	**24 253.00**
Investment of funds	180 000.00
Available balance	**204 253.00**

D. Trust fund for the law of the sea

31. At its twenty-eighth session, the Tribunal approved the Registrar's proposal to establish a new trust fund for the law of the sea and decided to refer it to the Meeting of States Parties for its consideration in accordance with regulation 6.5 of the Financial Regulations of the Tribunal.

32. As provided for in its terms of reference, the trust fund is intended to promote the advancement of human resources in developing countries in law of the sea and maritime affairs in general. Contributions to the trust fund will be used to provide financial assistance to applicants from developing countries in respect of participation in the Tribunal's internship programme and the summer academy. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions as well as natural and juridical persons are invited to make voluntary financial or other contributions to the trust fund.

33. Two contributions to the fund, in the amounts of €25,000 and €15,000, were made in April 2010 and October 2011 by a company from the Republic of Korea operating in Hamburg and by the Korean Maritime Institute, respectively. Bank charges amounting to €309 have thus far been recorded and the available balance stood at €39,691 on 31 December 2011.

Annex I

Letter dated 27 January 2012 from BDO Deutsche Warentreuhand to the Registrar of the International Tribunal for the Law of the Sea

Certification of the cash surplus for the financial period 2009-2010 of the International Tribunal for the Law of the Sea

The International Tribunal for the Law of the Sea (referred to as the "Tribunal" in the following) assigned us to examine the cash surplus of the Tribunal for the financial period 2009-2010.

The determination of the cash surplus according to the Financial Regulations of the Tribunal is the responsibility of the Registrar of the Tribunal. Our responsibility is to examine if the cash surplus is determined according to the Financial Regulations of the Tribunal.

Based on our examination the attached cash surplus of the Tribunal for the financial period 2009-2010 (appendix I) amounts to €1,873,979 and was determined in conformity with the Financial Regulations of the Tribunal.

For the performance of the assignment and our responsibility — including those to third parties — the general terms of assignment for auditors and audit companies as of 1 January 2002 as well as the special conditions for the increase of liability in connection with the general terms of assignment are applicable. These terms are attached in appendix II.

(*Signed*) Dirk **Beecker**
Wirtschaftsprüfer

(*Signed*) Antonius **Herbers**
Wirtschaftsprüfer

Appendix I

International Tribunal for the Law of the Sea: cash surplus for the financial period 2009-2010

Provisional cash surplus, 31 December 2010

Final excess of income over expenditure 2009-2010	2 059 041
Cancellation of the 2007-2008 obligations surrendered with 2007-2008 cash surplus	-72 713
Contributions receivable from States parties with respect to 2009-2010	-296 242
Provisional cash surplus 2009-2010	**1 690 086**

Cash surplus, 31 December 2011

Surrender of savings in accordance with SPLOS/224	-176 704
Prior periods' contributions received in 2011	251 923
Savings from 2009-2010 obligations	108 674
Cash surplus 2009-2010, 31 December 2011	**1 873 979**

Appendix II

General engagement terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften [German Public Auditors and Public Audit Firms] as of 1 January 2002

[For the text of appendix II, see SPLOS/175, annex I, appendix II. The second paragraph under "Special conditions for the increase of the liability under the general engagement terms as of 1 January 2002" has been amended to read as follows:

> If, in the client's opinion, the foreseeable contractual risk will be considerably higher than €5 million, BDO Deutsche Warentreuhand Aktiengesellschaft will agree, at the client's request, to offer to the client an increased liability limit if and to the extent the liability insurance for the increased amount can be obtained from a German professional liability insurer. The premium expense arising out of an increased liability will be subject to a separate agreement.]

Annex II

Provisional performance report, 2011

	Part Section	Objects of expenditure	2011 approved budget	2011 expenditure (as at 31/12/2011)	2011 unliquidated obligations (as at 31/12/2011)	2011 total expenditure (as at 31/12/2011)	Balance	Total expenditure/ approved budget (percentage)
1	A	**RECURRENT EXPENDITURE**						
2	1	**Judges**	**2 460 350**	**2 363 120**	**3 341**	**2 366 461**	**93 889**	
3		Annual allowances	1 537 550	1 537 336	0	1 537 336	214	99.99
4		Special allowances	389 350	361 002	0	361 002	28 348	92.72
5		Travel to session	138 750	125 282	0	125 282	13 468	90.29
6		Judges' pension scheme	300 000	296 325	0	296 325	3 675	98.78
7		Common costs	94 700	43 175	3 341	46 516	48 184	49.12
8								
9	2	**Staff costs**	**3 661 500**	**3 385 153**	**8 278**	**3 393 431**	**268 069**	
10		Established posts	2 433 400	2 364 891	106	2 364 997	68 403	97.19
11		Common staff costs	1 017 100	863 033	7 383	870 416	146 684	85.58
12		Overtime	16 200	15 024	0	15 024	1 176	92.74
13		Temporary assistance for meetings	99 700	78 731	135	78 866	20 834	79.10
14		General temporary assistance	59 050	34 991	654	35 645	23 405	60.36
15		Training	36 050	28 483	0	28 483	7 567	79.01
16	3	**Representation allowance**	**5 650**	5 495		**5 495**	**155**	97.26
17	4	**Official travel**	**92 650**	47 657	0	**47 657**	**44 993**	51.44
18	5	**Hospitality**	**6 950**	4 157	0	**4 157**	**2 793**	59.81
19	6	**Operating expenditures**	**1 416 550**	**1 217 726**	**131 737**	**1 349 463**	**67 087**	
20		Maintenance of premises (incl. security)	1 048 050	902 678	101 889	1 004 567	43 483	95.85
21		Rental and maintenance of equipment	180 700	167 196	13 077	180 273	427	99.76
22		Communications	98 600	77 870	6 852	84 722	13 878	85.92
23		Misc. services and charges (incl. bank charges)	21 500	21 225	0	21 225	275	98.72
24		Supplies and materials	61 950	44 907	9 919	54 826	7 124	88.50
25		Special services (external audit)	5 750	3 850		3 850	1 900	66.96
26	7	**Library and related costs**	**162 300**	**116 304**	**15 438**	**131 742**	**30 558**	
27		Library — procurement of books and publications	117 300	104 185	11 664	115 849	1 451	98.76
28		External printing and binding	45 000	12 119	3 774	15 893	29 107	35.32

	Part Section	Objects of expenditure	2011 approved budget	2011 expenditure (as at 31/12/2011)	2011 unliquidated obligations (as at 31/12/2011)	2011 total expenditure (as at 31/12/2011)	Balance	Total expenditure/ approved budget (percentage)
29								
30	B	**NON-RECURRENT EXPENDITURE**						
31	8	Furniture and equipment						
32		Purchase of equipment	**77 400**	25 299	8 139	**33 438**	**43 962**	43.20
33								
34	C	**CASE-RELATED COSTS**	**3 228 400**	**1 369 300**	**12 971**	**1 382 271**	1 846 129	42.82
35	10	**Judges**	**2 306 800**	**898 586**	**0**	**898 586**	**1 408 214**	38.95
36		Special allowances	1 880 100	773 657	0	773 657	1 106 443	41.15
37		Compensation to judges ad hoc	196 000	96 019	0	96 019	99 981	48.99
38		Travel to meetings, incl. judges ad hoc	230 700	28 910	0	28 910	201 790	12.53
39	11	**Staff costs**	**921 600**	**470 714**	**12 971**	**483 685**	**437 915**	52.48
40		Temporary assistance for meetings	876 600	452 171	12 971	465 142	411 458	53.06
41		Overtime	45 000	18 543	0	18 543	26 457	41.21
42	12	**Miscellaneous**	**0**	0		**0**	**0**	
43								
44	D	**WORKING CAPITAL FUND**	**0**	0		**0**	**0**	
45								
46		**TOTAL**	**11 111 750**	**8 534 211**	**179 904**	**8 714 115**	**2 397 635**	**78.42**

United Nations Convention on the Law of the Sea SPLOS/243

Meeting of States Parties

Distr.: General
9 April 2012

Original: English

Twenty-second Meeting
New York, 4-11 June 2012

Appointment of Auditor for financial years 2013-2016

(Presented by the Tribunal)

1. Pursuant to Regulation 12.1 of the Financial Regulations of the Tribunal:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. Accordingly, the Tribunal may consider whether it is appropriate to submit proposals to the Meeting of States Parties regarding the appointment of the Auditor for the financial periods 2013-2014 and 2015-2016. A draft document in this regard is contained in the annex to the present document.

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Annex

Appointment of auditor for financial years 2013-2016

1. Pursuant to Regulation 12.1 of the Financial Regulations of the Tribunal:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. In order to enable the Tribunal to make proposals regarding the appointment of an auditor, six internationally recognized firms of auditors with offices in Germany (BDO Deutsche Warentreuhand AG; Deloitte & Touche; Ernst & Young; KPMG; PricewaterhouseCoopers; and Warth & Klein Grant Thornton) were contacted by the Registry. In January 2012 the Registry sent a request for quotation (attachment I) to those firms. The scope of audit (attachment II) was also communicated to those firms. Since the Tribunal has no internal audit service, the request for quotation included a provision for an interim audit every two years, that is, in 2013 and 2015, as well as a provision for the audit of the cash surplus.

3. Five firms, except Deloitte & Touche, responded to the request and the quotations received by the Registry are as follows:

Audit firm	*Total (including expenses, excluding VAT) 2013-2014* (euros)	*Total (including expenses, excluding VAT) 2015-2016*
BDO Deutsche Warentreuhand AG	11 900	11 900
Ernst & Young	10 400	10 400
KPMG	22 510	22 510
PricewaterhouseCoopers	21 000	21 000
Warth & Klein Grant Thornton	16 000	16 000

4. The Registry evaluated the above quotations, taking into account technical ability to perform the audit in accordance with generally accepted common auditing standards, the interest of the Tribunal and the best value for the money.

5. On this basis, the Registry selected all five as quotations to be regarded as having met the requirements of the Tribunal.

6. The amount of €16,400 has been included in the draft budget proposals of the Tribunal for 2013-2014 for the 2013-2014 audit, on the basis of the average of the five quotations selected in paragraph 5 above. The amount will be adjusted according to the decision to be taken by the Meeting of States Parties.

7. It may be noted that the following Auditors were previously selected to conduct the audit of the financial statements of the Tribunal:

Financial period	*Firm*	*Cost*
1996/97	Arthur Andersen	US$ 13 000
1998	Arthur Andersen	US$ 13 000
1999	Arthur Andersen	US$ 13 000
2000	Arthur Andersen	US$ 13 000
2001	PriceWaterhouseCoopers	US$ 13 100
2002	PriceWaterhouseCoopers	US$ 13 400
2003	PriceWaterhouseCoopers	€14 000
2004	Deloitte & Touche	€9 200
2005-2006	BDO Deutsche Warentreuhand	€7 000
2007-2008	BDO Deutsche Warentreuhand	€7 000
2009-2010	BDO Deutsche Warentreuhand	€10 450
2011-2012	BDO Deutsche Warentreuhand	€10 450

8. At its thirty-third session, the Tribunal examined the quotations and the evaluation carried out by the Registry and decided to transmit this information to the Meeting of States Parties for its consideration, should the Meeting decide to appoint an internationally recognized firm of auditors as Auditor for the financial periods 2013-2014 and 2015-2016.

Attachment I

Request for quotation

12 January 2012

The International Tribunal for the Law of the Sea is an independent international organization which was established by the United Nations Convention on the Law of the Sea. It began operation in October 1996 at its seat in Hamburg.

The Tribunal has a biennial budget of approximately €20 million and its financial statements are subject to audit. We kindly request you to send us a quotation by 10 February 2012 for audits of the Tribunal's financial periods 2013-2014 and 2015-2016. The quotation should include all related costs, e.g. remuneration, travel, per diem, disbursements, etc. As we contemplate interim audits of the financial records on an annual basis covering the records for the years 2013 and 2015, the quotation should also include the interim audits. In addition, the quotation should also encompass the audit of the cash surplus of the Tribunal; under the Financial Regulations and Rules of the Tribunal the cash surplus is established one year after the closing of the financial period to which it relates.

The financial statements of the Tribunal will cover the two financial periods ending 31 December 2014 and 31 December 2016. The audited financial statements and the audit reports must be presented to the Tribunal during its administrative sessions following the end of the financial period. These sessions are to be held in March 2015 and March 2017. Accordingly, the audits will need to be undertaken in late January/early February in 2015 and 2017.

The scope of the audit is defined in the enclosure accompanying the present letter.

Please contact me on telephone number 040-35607266, Mr. José Castro Espinoza at the e-mail address castro-espinoza@itlos.org or Mr. Roman Ritter at the e-mail address ritter@itlos.org should you require clarification or desire further information.

We look forward to your prompt response.

Yours sincerely,

(*Signed*) Doo-young **Kim**
Deputy Registrar

Attachment II

Scope of audit

(a) Whether the financial statements of the International Tribunal for the Law of the Sea present fairly in all material aspects the financial situation of the Tribunal;

(b) Whether the expenses incurred during these financial periods are in accordance with the appropriations approved by the Meeting of States Parties;

(c) Whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rules or the Financial Regulations of the Tribunal;

(d) Whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided for in the Rules or the Financial Regulations of the Tribunal;

(e) Whether goods and services have been procured in accordance with the procedure provided for in the Financial Regulations of the Tribunal;

(f) Whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal.

Attachment III

Annex to the Financial Regulations

Additional terms of reference governing the audit of the International Tribunal for the Law of the Sea

1. The Auditor shall perform such audit of the accounts of the Tribunal, including all trust funds and special accounts, as it deems necessary in order to satisfy itself:

(a) That the financial statements are in accord with the books and records of the Tribunal;

(b) That the financial transactions reflected in the statements have been in accordance with these Regulations and the Financial Rules, the budgetary provisions and other applicable directives;

(c) That the securities and moneys on deposit and on hand have been verified by certificates received direct from the Tribunal's depositaries or by actual count;

(d) That the internal controls, including internal oversight, are adequate in the light of the extent of reliance placed thereupon.

2. The Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Registrar and may proceed to such detailed examination and verification as it chooses of all financial records, including those relating to supplies and equipment.

3. The Auditor and its staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit. Information which is classified as privileged and which the Registrar (or a designated senior official) agrees is required by the Auditor for the purposes of the audit and information classified as confidential shall be made available on application. The Auditor and its staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditor may draw the attention of the Tribunal and the Meeting of States Parties to any denial of information classified as privileged which, in its opinion, was required for the purpose of the audit.

4. The Auditor shall have no power to disallow items in the accounts but shall draw the attention of the Registrar, for appropriate action, to any transaction for which it entertains doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Registrar.

5. The Auditor (or such of its officers as it may designate) shall express and sign an opinion on the financial statements which shall read as follows:

> "We have examined the following appended financial statements, numbered ... to ..., properly identified, and relevant schedules of the International Tribunal for the Law of the Sea for the financial period ended 31 December .... Our examination included a general review of the accounting procedures and such

tests of the accounting records and other supporting evidence as we considered necessary in the circumstances."

The opinion shall also state, as appropriate, whether:

(a) The financial statements present fairly the financial position as at the end of the period and the results of their operations for the period then ended;

(b) The financial statements were prepared in accordance with the stated accounting principles;

(c) The accounting principles were applied on a basis consistent with that of the preceding financial report;

(d) Transactions were in accordance with these Regulations and legislative authority.

6. The report of the Auditor on the financial operations of the Tribunal for the financial period shall be submitted to the Meeting of States Parties through the Tribunal. It shall indicate:

(a) The type and scope of the Auditor's examination;

(b) Matters affecting the completeness and accuracy of the accounts, including, where appropriate:

(i) Information necessary to the correct interpretation of the accounts;

(ii) Any amounts which ought to have been received but which have not been brought to account;

(iii) Any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements,

(iv) Expenditures not properly substantiated;

(v) Whether proper books of accounts have been kept; where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) Other matters which the Auditor considers should be brought to the notice of the Meeting of States Parties, such as:

(i) Cases of fraud or presumptive fraud;

(ii) Wasteful or improper expenditure of the Tribunal's money or other assets, notwithstanding that the accounting for the transaction may be correct;

(iii) Expenditure likely to commit the Tribunal to further outlay on a large scale;

(iv) Any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) Expenditure not in accordance with the intention of the Meeting of States Parties after making allowance for duly authorized transfers within the budget;

(vi) Expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) Expenditure not in conformity with the authority which governs it;

(d) The accuracy or otherwise of the supplies and equipment records as determined by stock-taking and examination of the reports;

(e) If appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Meeting of States Parties should have early knowledge.

7. The Auditor may make such observations with respect to its findings resulting from the audit and such comments on the Registrar's financial report as it deems appropriate to the Meeting of States Parties, the Tribunal or the Registrar.

8. Whenever the scope of audit of the Auditor is restricted, or whenever it is unable to obtain sufficient evidence, it shall refer to the matter in its opinion and report, making clear in the report the reasons for its comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditor include criticism in its report without first affording the Registrar an adequate opportunity of explanation on the matter under observation.

10. The Auditor shall not be required to mention any matter referred to in the foregoing that, in its opinion, is insignificant in all respects.